

REMARKS

Reconsideration of the application is requested in view of the above amendments and the following remarks. Claim 19 has been amended. The amendment to claim 19 is supported by the description at page 10, lines 22-24 and Figure 9 of the present application. New claim 44 has been added and tracks the limitations of claim 1. New claim 44 is further supported by the description at page 5, lines 5-14 of the present specification. New claim 45 depends from claim 19. No new matter has been added.

Interview Summary

An telephone interview was conducted between Examiner Bui and Applicant's attorney Joshua Randall (Reg. No. 50,719) on November 2, 2004. The parties discussed the Doyle reference as it relates to claims 1 and 13, and the Lin and Doyle references as they relate to claims 19. The Examiner indicated that the cited references did not appear to disclose every limitation of claims 1, 13 and 19. The Examiner recommended some amendments to claims 1, 13 and 19 that may further distinguish the claims from the cited references. Applicants submit that claims 1, 13 and 19 do not require further amendments for the reasons stated below.

§ 102 Rejections

Claims 1-3, 5, 6, 13, 16-18 and 43 were rejected under 35 U.S.C. § 102(b) as being anticipated by Doyle (U.S. 5,961,042). Applicants respectfully traverse this rejection.

Doyle discloses a fire and water display that includes a self-entraining nozzle 26 having a gas line 48 and a water tube 24 that direct gas and water, respectively, into a Venturi 64. A gas and water mixture exits the top, open end of the Venturi 64 where the gas is ignited by the pilot light and ignition system 66. The Venturi 64 extends at least partially above a surface of the pool (see Figure 3 of Doyle).

The rejection refers to Figures 1 and 2 of Doyle as disclosing "a manifold completely disposed within the liquid." However, Figure 1 does not clearly show the device completely disposed within the pool and Figure 2 is silent as to the level of the pool relative to the top of the nozzle 26. Figure 3 is the only figure that clearly shows the level of the pool surface relative to

the Venturi 64. The description of Figure 3 supports the illustration provided in Figure 3 by describing that the "self-entraining nozzles are placed in a pool with the top of the nozzle above the surface of the pool" (column 2, lines 6-17). Because the Venturi 64 extends above the surface of the pool, the Venturi 64 is not completely disposed within the pool. Therefore, Doyle fails to disclose every limitation of claim 1.

Doyle also fails to disclose all of the limitations of claim 13. Doyle discloses a gas line 48 that delivers a supply of gas into the Venturi member 64. A separate tube structure 24 supplies water to the Venturi 64. Gas from the gas line 48 mixes with water from the tube structure 24 within the Venturi member 64 and the mixture of gas and water exits through the top, open end of the Venturi 64.

Doyle fails to disclose delivering the gas and liquid into a passage and wherein "the combustible gas and the supply of liquid are delivered to the manifold space through the passage," as required by claim 13. As noted above, Doyle discloses delivery of combustible gas through gas line 48 to the Venturi 64 and separately delivering a liquid (water) through the tube 24 to the Venturi 64. Doyle fails to disclose a separate "passage" through which the gas and liquid are both delivered to a manifold. Therefore, Doyle fails to disclose every limitation of claim 13 and the claims that depend from it.

As to claim 43, Doyle discloses directing water into Venturi 64 using a tube 24 and also directing a combustible gas into the Venturi 64 using gas line 48. The combined gas and water mixture exits the top end of the Venturi 64 wherein the gas is ignited to form a flame and water mixture. Doyle fails to disclose shielding or in any way preventing contact between the water provided by tube 24 and the ignited gas. Therefore, Doyle fails to disclose or suggest "shielding the flames from the directed water by contacting the directed water," as required by claim 43.

§ 103 Rejection

Claim 19 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lin (U.S. 6,565,940) in view of Doyle. Applicants respectfully traverse this rejection.

Lin discloses a floating fountain that includes a platform 10, an ornamental object 20, a floating member 30, a tube 40, a weighted member 50, and a hose 60. The hose provides a

source of water from a remotely located source. The remotely located source is not "a combustible gas source disposed on the float," as required by claim 19.

Doyle discloses a gas line 48 that couples a remote source of gas 50 to a self-entraining nozzle 26. The gas supply 50 is not "a combustible gas source disposed on the float," as required by claim 19. Doyle and Lin fail to suggest a gas source disposed on the float. Therefore, Lin and Doyle fail to disclose or suggest every limitation of claim 19.

New Claims

New claim 44 tracks the limitations of claim 1 and includes the Examiner's suggested claim language for further distinguishing claim 1 over the cited references. Claim 44 requires that the manifold is completely submerged below a surface of the liquid. This limitation is similar to the limitations of claim 1. Therefore, Applicants submit that claim 44 is allowable for at least the reasons stated above related to claim 1.

New claim 45 depends from claim 19 and requires that the combustible gas source includes a gas storage container that holds combustible gas for delivery to the manifold space. The art of record fails to disclose a gas storage container on a float. Favorable consideration of claim 45 is respectfully requested.

Failure to Consider Claim 21

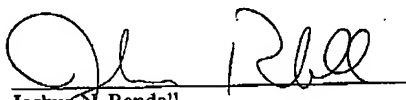
Applicants note that independent claim 21 was not addressed in the present Office Action or in the previous Office Action. Applicants' representative Joshua Randall (Reg. No. 50,719) discussed this issue with Examiner Bui by telephone on June 8, 2004. Examiner Bui indicated that he would restart prosecution of claim 21 on the merits after receiving a response from the Applicants related to the Office Action dated March 8, 2004. Unfortunately, the present Office Action does not address claim 21 and prosecution was not restarted as indicated previously by the Examiner. Consideration of claim 21 is respectfully requested and a removal of the final status of the present Office Action is earnestly solicited.

In view of the above, Applicants requests reconsideration of the application in the form of a Notice of Allowance. If a phone conference would be helpful in resolving any issues related to this matter, please contact Applicants' attorney listed below at 612.371.5387.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

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Joshua N. Randall
Reg. No. 50,719
JNR:ae:njo

